

**United Nations Permanent Forum on Indigenous Issues Seventh Session
New York, April 21 to May 2, 2008.**

**Item 4: Implementation of the recommendations on the six mandated areas of the
Permanent Forum and on the Millennium Development Goals**

Presented by Cheryl Maloney on behalf of:

**The Grand Council of the Mi'kmaq
Assembly of First Nations (on behalf of 633 First Nations in Canada)
First Nations Summit
Grand Council of the Crees (Eeyou Istchee)
International Organization for Indigenous Resource Development (I.O.I.R.D.)
Inuit Circumpolar Council - Canada
Inuit Tapiriit Kanatami
Native Women's Association of Canada
Canadian Friends Service Committee (Quakers)
Kairos: Canadian Ecumenical Justice Initiatives**

**UN Declaration on the Rights of Indigenous Peoples: Continued Opposition of the
Government of Canada Undermines the International System and Violates the Will
of its Parliament.**

Indigenous peoples and human rights organizations from Canada are pleased to bring to the attention of the Permanent Forum the recent decision by the Canadian Parliament to endorse the United Nations Declaration on the Rights of Indigenous Peoples. However, we are concerned that the current government continues to oppose this universal human rights instrument.

The adoption by the UN General Assembly was a historic vote by an overwhelming majority of member states. Canada was one of only four states to oppose the Declaration. The current minority government has since claimed that the Declaration is not applicable in Canada. This claim has no legal basis and is unprecedented in Canada's foreign and domestic policy.

On Tuesday, April 8, 2008, the Canadian House of Commons adopted a resolution to "endorse" the Declaration as adopted by the UN and calling on Parliament and the Government of Canada to "fully implement the standards contained therein." The House of Commons is the elected chamber of Canada's Parliament. In adopting this resolution on the Declaration, the House of Commons rejected positions on the Declaration expressed by the current minority government at home and abroad.

The rights affirmed in the Declaration are vital to Indigenous peoples. We deeply appreciate the fact that the majority of Members of Parliament chose to strengthen the international human rights system and endorse the Declaration.

During the House of Commons debate over the resolution, Conservative government spokespersons claimed that the Declaration would undo centuries of Canadian treaties with Indigenous peoples. The UN Declaration explicitly states that treaties and other agreements with Indigenous peoples are to be honoured, respected and enforced.

Human rights declarations become universally applicable upon their adoption by the UN General Assembly, regardless of how individual states vote. Indigenous peoples and human rights organizations hope that the decision of the Canadian Parliament will cause the government to reconsider its undemocratic position. We expect the government to fully implement the UN Declaration in Canada and positively alter its foreign policies in this regard.

Canada's reputation in international human rights continues to suffer as a result of its unjustified opposition to the Declaration. A recent example relates to the Organization of American States (OAS) Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples. In its April 14, 2008 Statement to the Working Group, Canada indicated that it would attempt to block consensus, unless: "the document adopted clearly indicated that Canada did not give its support and as long as there was an explicit understanding that the Declaration text therefore did not apply to Canada."

These conditions are inconsistent with the rule of law, international practice and domestic precedent within Canada and are, therefore, inappropriate, unacceptable and discriminatory. In interpreting human rights, Canadian courts are free to invoke and often rely upon a wide range of international instruments, including declarations.

As indicated by the Indigenous Peoples' Caucus of the Americas on April 15, 2008:

Canada is seeking to create a dangerous precedent within the OAS. That is, any State that chooses to oppose the adoption of any declaration within the Inter-American system could simply opt to oppose it and prevent its domestic application. This would severely undermine the principle of international cooperation that is a crucial element of the *UN Charter* and the *OAS Charter*. It would also undermine the progressive development of human rights within the Hemisphere.

Recommendation:

We urge the Permanent Forum to recommend to ECOSOC and the Human Rights Council that the Treaty monitoring bodies and the UN mechanisms, including Special Rapporteurs and the UN Expert Mechanism on the Rights of Indigenous Peoples, use the Declaration throughout their work. This will include the interpretation of human rights as they apply to Indigenous peoples, as well as in the ongoing human rights monitoring of all member states. The United Nations should not allow a few states to undermine the international system with claims that the UN Declaration does not apply within the borders of such States.